

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3348 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

KHEDA DIST PRATHMIK SHIKSHAK SAMAJ

Versus

STATE OF GUJARAT

Appearance:

MR DC RAVAL for Petitioners
MR HL JANI for Respondent No. 1
MR ANANT DAVE for Respondent No. 2
None present for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/05/97

ORAL JUDGMENT

On 9th April, 1997, on behalf of respondent No.2 nobody remained present in the Court. The Court has ordered for presence of respondent No.2 in-person before this Court alongwith relevant record. The respondent No.2 is present in-person today with relevant records. Heard learned counsel for the parties.

2. The petitioners prayed for directions to the respondents that in the revised pay scale of Rs.290-560 under the Gujarat Civil Services (Revision of Pay), Rules, 1975, the date of next increment of the members of the petitioner No.1 and petitioners No.2 to 6 be stepped up to 1st January, 1973, raising their pay to Rs.298/- p.m. Consequential benefits have also been prayed for.

3. Reply to the Special Civil Application has not been filed by respondents No.1 and 3. The respondent No.2 filed reply to the Special Civil Application and it has been submitted therein that nothing has to be done at the end of respondent No.2 and the matter has to be decided by respondent No.3 where the same is pending. It is a case where the petitioner No.1 and other petitioners are praying for stepping up of the pay of senior primary teachers to bring at par with the with the pays of junior persons as anomaly in their pay has arisen because of revision of pay scales with effect from 1.1.73. From the reply of respondent No.2 it comes out that the application was submitted by the affected teachers in respect of their grievance to the President of Kheda District Panchayat Teachers' Mandal in October 1982 to obtain necessary orders from Primary Education Officer regarding stepping up. Those applications were sent by the President of the Mandal to respondent No.2 on 18th October, 1982, which were admittedly received on 19th October, 1982. After receiving those applications meeting of President, Assistant Examiner and concerned Taluka Supervisors were held on 8.11.82 to discuss the cases of stepping pay of the petitioners. In the meeting it was decided to take immediate decision for giving benefit of Manguben's date of increment to other teachers. It has further been resolved that if such decision cannot be taken immediately then the benefit of Shri Govindbhai's date of increment should be given to the petitioners. It appears that the case of Manguben was not accepted by the Assistant Examiner and she had approached this Court by filing Special Civil Application No.2012 of 1983. The respondent No.2 submitted a Darkhast dated 7.2.83 to the Assistant Examiner and prayed therein that whether in the aforesaid facts, the petitioner can be given benefits of stepping up or not. The respondent No.2 submitted detailed information in this respect to the Assistant Examiner. The Assistant Examiner under its letter dated 3.8.83 called from the respondent No.2, certain records and the relevant authority has prepared the forms etc. and submitted to the Assistant Examiner. So the matter for grant of stepping up of the pay of petitioners is pending for

final decision before the Audit Examiners.

4. So, from the reply of respondent No.2, it appears that the respondent No.3, the Examiner Local Funds, is the concerned authority to which the matter of the petitioners has been sent, but it has sat upon that matter. The respondent No.3 has not filed any reply to the Special Civil Application and it has not given any reason for not to decide the matter of the petitioners which has been sent long back to it by respondent No.2. The learned counsel for respondents are unable to furnish any explanation to justify the inaction of respondent No.3 to sit over the matter of stepping the pay of the petitioners which has been sent to it for final decision by respondent No.2. This callous approach of respondent No.3 deserved deprecation. Once the matter was sent for decision in the matter of pay scale or other service benefits on which decision was to be taken by respondent No.3, same should have been decided by it within a reasonable time, say within three to six months, and the authority could not have sat over the matter for years. The learned counsel for respondents No.1 and 3 tried to furnish explanation that Manguben's case has been decided and that matter is sub-judice before this Court. However, these matters are not res-judicata and each case has to be decided on the basis of its own facts. It is true that Manguben's case has been decided, but at the same time, the respondent No.2 has alternatively suggested that the benefits of the date of increment given to Govindbhai, may be given to the petitioners. These matter are not res-judicata and the same are always open for reconsideration on the representations made by the affected employees. Moreover, when the matter has been sent to respondent No.3 for taking decision, it has to decide the same one way or the other, but sitting over the matter is highly arbitrary and perverse approach. This is the reason that this Court has unnecessarily been burdened with the matters which could have been and which should have been decided by the State or its functionaries and officers at their own level. The approach of the State functionaries and officers seems to be of not sharing burden of deciding the matters of the employees. In service matters, this Court has insisted the employees first to approach to the hierarchy for redressal of their grievances but the callous approach of the officers of the State to sit over the matters compels the employees to approach this Court. The case in hand is the case belonging to that category. These low paid employees, the primary teachers, were compelled to approach this Court for relief which could have been considered and decided at the level of respondent No.3.

A litigation, may be of the year 1983 or 1997, it costs. The petitioners have incurred heavy expenses of this litigation merely because the respondent No.3 has failed to discharge its duties to consider the case of stepping up the pay by giving them date of increment which has been given to Govindbhai. This Court will not permit the respondent No.3 to be oblivious of its own duties. The matter is pending before respondent No.3 and as such it has to first take a decision. It is the duty and obligation on the officer to whom representation is made by the employees to decide the same and the concerned officer cannot be relieved of his duty and obligation. The Special Civil Application filed by Manguben, being Special Civil Application No.2012 of 1983 has already been decided by this Court and the same has been dismissed on 7th August, 1986. This Special Civil Application has been dismissed by this Court for non prosecution. So this Court has not given any decision on merits of the matter. As the matter of Manguben has not been decided on merits, the respondent No.3, while deciding the matter of petitioners of stepping up their pay will not take the case of Manguben to be finally decided by this Court. The matter of petitioners for stepping up their pay will be decided by respondent No.3 on its merits only.

5. In the result, this Special Civil Application is disposed of with directions to respondent No.3 to decide the matter of stepping up of pay of the petitioners within three months from the date of receipt of writ of this order. In case the grievance of the petitioners are not acceptable, the respondent No.3 shall pass a reasoned order and a copy of the same may be sent to the petitioners by registered post acknowledgment due. Liberty is granted to the petitioners to move the application for revival of the Special Civil Application in case the matter is decided against them by respondent No.3. Though at one point of time, I thought it fit to award costs of litigation, but now as liberty has been granted to the petitioners for revival of this petition in case of difficulty, I do not consider it appropriate to grant any costs in favour of petitioners. Rule stands disposed of in aforesaid terms. No order as to costs.

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